

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION**

NO. 5:18-CR-00452-1-FL

UNITED STATES OF AMERICA

Plaintiff

v.

LEONID ISAAKOVICH TEYF,

Defendant

**UNOPPOSED
MOTION TO CONTINUE TRIAL**

Defendant Leonid Isaakovich Teyf (“Mr. Teyf”), through counsel, respectfully moves this Court for an order continuing the trials in this matter currently scheduled for August 31 and September 8, 2020 for approximately 60 days for reasons related to this Court’s prior Standing Order dated June 18, 2020 governing criminal proceedings at the United States Courthouse at New Bern, North Carolina in connection with the COVID-19 pandemic. Defense counsel has conferred with Government counsel, who does not object to the granting of the requested continuance and whose position is more specifically stated below. In support of this motion, Defendant incorporates the grounds set forth in his motion to continue filed July 9, 2020 (DE 587) and further shows the following:

1. Defendant is and remains a “vulnerable person” pursuant to the Court’s Standing Order governing jury proceedings at the United States Courthouse at New Bern, North Carolina (DE 586), as set forth in DE 587. Specifically, as confirmed by his medical records, Mr. Teyf is a 59-year old man who suffers from numerous physical and medical conditions, including Type II diabetes, chronic gastritis, arterial hypertension, obesity, and gastroesophageal reflux disease. *See* DE 103, Ex. 10; 1/22/19 Tr. at 44:4-16, 45:8-14 (“Mr. Teyf has diabetes; he has an irregular

heartbeat; he has chronic gastritis from a hiatal hernia; he has a variety of other ailments, including injuries from an accident that left him with significant muscular and bone issues that require him to do certain kinds of exercises or he suffers pain and is unable to sleep.”). Additionally, as indicated below, the Government does not dispute that Defendant has certain health issues and is within an age bracket that is more susceptible to the COVID-19 strain.

2. North Carolina remains in Phase 2 until at least September 11, 2020. *See* Exec. Order No. 155, here: <https://files.nc.gov/governor/documents/files/EO155-Extension-of-Phase-2.pdf>. Accordingly, state courts in North Carolina will not conduct any jury trials until at least October 1. *See* N.C. Courts website, here: <https://www.nccourts.gov/covid-19#announcements-and-orders-8551>.

3. The Government’s position is as follows:

While the Government does not object to the Defendant’s requested additional continuance, it is the Government’s belief, based on trending of the data available, the ability of the court and counsel to adhere to safety measures, and the successful completions of other trials in the Eastern District of North Carolina, that trial can be safely accomplished for this Defendant at the conclusion of this additional continuance.

By way of explanation, the Government does not dispute that the Defendant has certain health issues and is within an age bracket that is more susceptible to the COVID-19 strain. However, there will forever be a percentage of risk unless COVID-19 is completely eradicated. Therefore, at some point, a certain level of risk must be accepted in order to proceed. Thus, an assessment of factors should be used to determine when the Defendant’s concerns are outweighed and trial should proceed. Appropriate factors include (but are not limited to): measures ready to be taken by the Court and counsel to mitigate risks; whether other trials have taken place without incident in the Eastern District of North Carolina; the present data available as pertains to the areas in which the Defendant will be housed; and the North Carolina Governor’s implementation of the U.S. Government-recommended phased approach to activity and what phase North Carolina is in. At present, Governor Cooper has extended Phase 2 (recommending that vulnerable individuals continue to shelter in place) until September 5, 2020. If all factors continue on their current trajectories, trial for this Defendant should be able to proceed at its next setting.

4. Additionally, Mr. Teyf's lead counsel based in New York continues to have significant limitations on his ability to have personal meetings with Mr. Teyf due to travel and quarantine restrictions imposed by Executive Order of New York's Governor which continue to trigger mandatory 14-day quarantines for travelers from North Carolina to New York. The quarantine period upon return to New York impairs necessary trial preparation in the office. Indeed, counsel has been out of their offices in New York since mid-March, and counsel's firm, Moses & Singer LLP, like almost all other businesses in the city, continues to operate remotely and no members of the staff have returned to the offices.¹ Notwithstanding interim phasing in New York, the reality is that office buildings remain essentially vacant as businesses continue to operate remotely and not require employees to return to their offices, many not until the end of the year.²

4. Defendant remains in pretrial detention at the Albemarle District Jail. There is no prejudice to the Government from the requested continuance.

5. Defendant consents to the exclusion of the period of delay caused by the requested continuance from the calculations under the Speedy Trial Act.

6. A proposed Order is submitted with this motion.

Respectfully submitted, this the 11th day of August, 2020.

/s/ F. Hill Allen

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¹ Moreover, due to Mr. Teyf's vulnerability to severe illness based upon his underlying medical conditions, all counsel are equally concerned with the unacceptable danger and harm that otherwise essential personal meetings could cause.

² Despite New York City's Reopening, Few Manhattan Office Workers Have Returned:
<https://www.wsj.com/articles/one-month-later-few-manhattan-office-workers-have-returned-despite-new-yorks-reopening-11595847600>

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Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of August, 2020, I electronically filed the foregoing **UNOPPOSED MOTION TO CONTINUE TRIAL** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

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